1951 K File No. O. Public Conveyance 51

Legal Dept

A BRANCH

Subject:— Opinions under the Bombay Public Conveyance Act 1920

File No. O. Public Conveyance 151

Gen. 194 e.

331-A

C O N T E N T S .

Legal Department File No. O. Public Conveyance / 1951

Sr. No.	R.I. / O. No.	Subject	Pages
		Opinions under the Bom bay Public Conveyances Act, 1920	
1).	2774 / 13-2-51.	Sec. 36(4) Question whether if the Notification is published in the Gazette thirty days before the ~~its~~ date fixed for its coming into effect it will be deemed to be duly/made /under the Sub-section	1-2.
2).	10594 / 4-7-51.	Question whether the exercise of the Police justification by the Saurashtra Govt. over any part of the territory of the Bombay State ~~does~~, ipso facto, amount to the surrender of the Jurisdiction of the Bombay State in other respect over that area or makes the teritory to a part of the Saurashtra State. ~~xxxxxx~~	3-4.
3).	14299 / 7-9-51	Question whether in view of paragraph 5 of the Baroda State (Application of Laws) Order , 1949 the provisions of the Borada can be ~~continued to there~~, continual in force Considered to have	5-8.
4).	15720 / 4-10-51	Question whether pending the issue of a notificatior under Sec. 36, there would be any legal objection t o carrying and the licensing of Public coveyances under the Act and ~~xxxxxxxxxxxxx~~ levy of fees at the rates which were in force in the ~~xx~~ merged area of Baroda prior to merger . out	

VVK. 27/6/56/
5C.

Legal Department.

Bombay Public Conveyances Act, 1920. Sec. 36(4)

The power to appoint stands under sub-section (4) of section 36 of the Bombay Public Conveyances Act, 1920. is exercised subject to the approval of the Government. Under sub-section (3) the notification has to be published at least thirty days before the date fixed for its coming into effect. The notification under this section does not require previous publication for inviting objections or suggestions from the public. If, therefore, the notification is published in the Gazete thirty days before the date fixed for its coming into effect it will be deemed to be duly made under the sub-section. (See section 23 of the Bom. General Clauses Act, 1904). The view taken by H.D. at p. 9 ante is correct .

Id/- J.R.D.
dt/- 12/2/

Additional Secretary to Government .

U.R. to H.D. No. 2774 , dated the 13th Feburary 1951.

v.v.k. 28/6/56/

5C.

Office of the R.L.A.

By Government Resolution, Home Department No. 2049/6, dated 10th May 1059 , the Police Jurisdiction over the sectors of the Railways through lands forming part of the State of Bombay was transferr d to the Government of Saurashtra for the efficient working and administrative convenience of the Saurashtra Railway Police as a whole. Home Department has not been able to say under what law this was done. However, the exercise of the Police jurisdiction by the Saurashtra Government over any part of the territory of the Bombay State does not ipso facto amount to the surrender of the jurisdiction of the Bombay State in other respects over that area nor does it make the territory a part of the Saurashtra State (p. 13 Annotated General Clauses Act G. of I, publication). Consequently the view taken by Home Department is correct.

Id/- J.R.D.
dt/- 2/7/5

Remembrancer of Legal Affairs .

U.R. to H.D. No. 10594 dated the 4th July 1951.

VVK. 27/6/56/
5C.

Office of the R.L.A.

By clause 3 of the Baroda State (Application of Laws) Order, 1949 , the Bombay Public Conveyances Act, 1920, was extended to the area of merged Baroda State. Sub-section (1) of section 36 of that Act empowers the State Government by notification in the Bombay Government Gazette, to extend the Act or any specified provisions thereof to any area within its jurisdiction from a date to be stated in such notification. The Commissioner, Northern Division , had accordingly issued a notification on 20th May 1950 extending the provisions of the Act to Baroda City Municipal Limits and the Dabhoi town municipal limits. That nofification however was not published thirty days before the date fixed for its coming into effect as required by sub-section (3) of section 36. On the contrary it proposed to bring the provisions of the Act into force with effect from 1st February 1950. The R.L.A. in his opinion No. 6218 dated 17-4-1951 therefore held that the notification in question was legally ineffective. The question of Government now issuing a proper notification as required by section 36 is being separately considered. Pending the issue of such notification, the Collector of Baroda in his letter at page 1 ante has raised the question whether it would be legally feasible for the District Superintendent of Police, Baroda, to proceed with the licensing of public conveyances and the collection of fees in accordance with the Provisions

of the Baroda Law, known as the [illegible]. The R.L.A. is requested to advise

2. The question reduces to whether in view of paragraph 5 of the Baroda State (Application of Laws) Order , 1949 , the provisions of the Baroda [illegible] can be considered to have continued in force. Under clause 5(c) of that order all enactments in force in the Baroda corresponding to the enactments in force in the Bombay State and extended, to the Baroda State under paragraph 3 are repealed. Since by paragraph 3 the Bombay Public Conveyances Act, 1920 , has been extended to the merged area of Baroda, it cannot be said, as presumed by the Collector, that pending the issue of a notification under section 36 thereof the provisions of the Baroda Law would continue in force .The proposal of the Collector to allow the District Superintendent of Police to contine to licence public conveyances in Baroda and Dabhoi municipal limits and to recover fees in espect thereof does not therefore appear to be legally feasible.

Id/- P.M.L.
dt/-

Remembrancer of Legal Affiars.

U.R. to H.D. No. 14299 , dated the 7th September 1951.

V.v.k. 27/6/56/
5C.

OFFICE OF THE R.L.A.

The question raised for the consideration of the R.LA. is whether pending the issue of notification under section 36 of the Bombay Public Conveyances Act, 1920, there would be any legal objection to carrying out the licensing of public conveyances under that Act, and levy of fees at the rates which where in force in the merged area of Baroda prior to merger. The answer to the question is in the negative .The position at present is that neither the Baroda Vahan Nibandha is in force in the merged area of Baroda, nor have the various provisions of the Bombay Public Conveyances Act, 1920, been extended thereto as no valid notification under section 36 of that Act is issued.There is no authority therefore for the licensing of vehicles as proposed by the H.D. Except to the extent of the continuance of the recovery of the fee already levied under the Baroda Law nothing else is saved under the Baroda State (Application of Laws) Order 1949 . The present proposal of the H.D. is not therefore legally feasible.The only course is to expedite the issue of the notification under section 36 of the Bombay Public Conveyances Act, 1920 .

Id/- J.R.D.
dt/- 3/10/

Remembrancer of Legal Affairs.

5/7

U.R. to H.D. No. 15720 dated the 4th/5th